

EXHIBIT J

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
Civil No. 1:20-cv-00066-WGY

CARYN DEVINS STRICKLAND,)
)
 Plaintiff,)
)
vs.)
)
UNITED STATES, et al.,)
)
 Defendants.)
_____)

Friday, April 14, 2023
Charlotte, North Carolina

Deposition of HEATHER BEAM, a witness herein,
called for examination by counsel for Plaintiff in the
above-entitled matter, pursuant to Notice, before
Dayna H. Lowe, Court Reporter and Notary Public in and
for the State of North Carolina, taken at Tin Fulton
Walker & Owen, PLLC, 301 East Park Avenue, Charlotte,
North Carolina, commencing at the hour of 9:06 a.m.

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C O N T E N T S

Examination by Ms. Warren:	5
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E X H I B I T S

(Plaintiff's)

Beam 13	Email(s), US 5361-5363	14
Beam 14	Email(s), US 2839-2841	15
Beam 15	EDR Plan January 2013	20
Beam 16	EDR Plan November 2018	20
Beam 17	Email(s), US 0462	21
Beam 18	Email(s), US 2454-2456	22
Beam 19	9/10/18 letter, US 5932-5938*	23
Beam 20	Email(s), US 0358-0360	26
Beam 21	Email(s), US 1432-1433	27
Beam 22	Email(s), US 1434-1435	30
Beam 23	Handwritten notes, US 6213-6236*	54
Beam 24	Email(s) and Counselor's Report, US 2293; US1244-1311*	64
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Beam 26	Email(s), US 1353-1354*	85
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REED & ASSOCIATES

MATTHEWS, NORTH CAROLINA 980.339.3575

1 Q. No. Okay. I want to start by talking about
2 your investigation in this case. When were you first
3 contacted about this case?

4 A. I believe it was sometime in September of --
5 five years ago, 2008 -- 2018.

6 Q. Who contacted you?

7 A. There was an email from Tony Martinez, and
8 then James Ishida had emailed me regarding that he had
9 asked Lisa Morris if he could borrow me for this
10 assignment and she had said yes.

11 Q. Who is Lisa?

12 A. She -- Lisa Morris is the prior chief
13 probation officer. She retired.

14 Q. Okay. And do you know why Mr. Ishida asked to
15 borrow you?

16 A. No, I don't remember why.

17 Q. Okay. Had you ever done an investigation like
18 this before?

19 A. No. This was my first one.

20 Q. And you said Tony also contacted you?

21 A. Yes.

22 Q. What did Tony say?

23 A. He had delegated me to be the EDR coordinator.

24 Q. And what did you understand that to mean?

25 A. That I was tasked with investigating the claim

1 Q. Oh, sorry. Did you ever advise Caryn of her
2 right to trigger the EDR process under Chapter X?

3 A. I do not recall if I did or not. I know we
4 did discuss her rights under the EDR plan, but I don't
5 remember specifically what I said.

6 Q. Okay. And now looking at number 3 in that
7 bullet.

8 A. Okay.

9 Q. James said to Tony, "So you had designated
10 Heather to investigate the allegations, and she now
11 reports to you under the Fourth Circuit EDR Plan."

12 A. Uh-huh.

13 Q. What did that mean to you?

14 A. Well, that means that I would investigate the
15 allegations and bring my report to Tony Martinez.

16 Q. Okay. And looking at the first page of this
17 document, towards the bottom there's an email that
18 begins, "Hi Tony," and the second line says, "I agree
19 that your office's EDR plan isn't applicable here
20 because Caryn did not file a grievance within five days
21 of the alleged harassment."

22 Do you think that that's talking about a
23 different policy than the Fourth Circuit's plan?

24 A. Yes, because he references "your office's EDR
25 plan."

1 Q. Uh-huh. Do you know how you contacted him?
2 Was it phone or email?

3 A. Phone.

4 Q. Okay. And did you take any notes on that
5 phone call?

6 A. No.

7 Q. How did you remember the tone of your call
8 with the AO about stopping your investigation?

9 A. I don't recall that I said anything about the
10 tone of a phone call.

11 Q. As you were on that phone call, how did you
12 understand the tone of the person who was talking to
13 you? Do you remember?

14 MS. McMAHON: Objection, form.

15 BY MS. WARREN:

16 Q. Do you remember what the person you were
17 talking to sounded like?

18 A. It was a female, and she told me to stop
19 investigating the claim.

20 Q. Did she sound upset?

21 A. I can't speculate on that.

22 Q. Do you remember is what I'm asking.

23 A. No, I don't.

24 Q. Did she threaten you in any way?

25 A. Not that I recall.

1 Q. Do you think you would have remembered if she
2 threatened you?

3 A. I probably would have remembered if she
4 threatened me, so I don't think she did.

5 Q. If she threatened you, would you have probably
6 made some notes?

7 MS. McMAHON: Objection, calls for
8 speculation.

9 BY MS. WARREN:

10 Q. You may answer.

11 A. I have no idea.

12 Q. Okay. Do you know who Frank Johns is?

13 A. Yes.

14 Q. Who is he?

15 A. He's the clerk of court for the District
16 Court.

17 Q. Was he involved in this matter in any way?

18 A. Not that I recall. He's my boss, so he knew
19 that I was investigating it because him and Lisa Morris
20 were both my bosses, but that was all he knew as far as
21 I'm aware.

22 Q. And would there be any reason to include him
23 on emails about this case?

24 A. I don't remember.

25 Q. I want to talk about your, I know, several

1 months of investigation in this case. You said that
2 this was your first time investigating.

3 A. Yes.

4 Q. Were you given any guidance about how to
5 investigate?

6 A. We were given an overview of the EDR process.

7 Q. Uh-huh. Did that overview include how to
8 conduct an investigation?

9 A. I do not recall. It's been a long time.

10 Q. Do you know when you got that overview?

11 A. No.

12 Q. Okay. Did you have any other guidance for
13 your investigation?

14 A. What timeframe are you talking about? Before
15 I did it?

16 Q. At any point before you began.

17 A. I do not remember if I had made another call
18 to Fair Employment Practices. I know that I did use the
19 JNet as a resource.

20 Q. And what is on the JNet?

21 A. It's the judiciary's intranet site, and there
22 are a ton of resources on there. It's not just for
23 human resources stuff. Pretty much all court related,
24 operational, administrative procedures and guidance and
25 policies.

1 Q. Did you find resources that were helpful for
2 your investigation?

3 A. I did find some, yes.

4 Q. What were those resources?

5 A. One that I recall is the template that I used
6 to do the investigation report.

7 Q. So there was a report template?

8 A. That I found, yes.

9 Q. Okay. Do you remember any other resources?

10 A. Not that I recall.

11 Q. Did you save a copy of that report template?

12 A. No. I just typed up my report based on that
13 format.

14 Q. Before we go into that, I just want to talk
15 for a moment about other resources that you had
16 available to you as HR staff.

17 A. Sure.

18 Q. In 2018 your role was in the probation office.
19 How long had you been there?

20 A. My role was a dual function. It was for the
21 probation office and the District Court.

22 Q. The Western District.

23 A. Yes. And I'd been there since August --
24 officially August 10th of 2018.

25 Q. That was your first date in that position?

1 Asheville, yes.

2 Q. And why did that affect her relationship with
3 JP?

4 A. I can't say why.

5 Q. You have in your notes on 6214, it looks like
6 she described some drinking in the office and with JP.
7 Did she tell you that at a retreat he brought her into
8 the hall at 11 p.m. at night?

9 A. Yes.

10 Q. And he asked her to go to someone else's room?

11 A. Yes. Those are the notes I have.

12 Q. And she said that I see other people noticed.

13 A. Uh-huh.

14 Q. Did you ask her who noticed?

15 A. I don't recall.

16 Q. Okay. Do you know if she told you who
17 noticed?

18 A. I don't remember. I'm sorry.

19 Q. And did she tell you about the email that JP
20 sent her that she understood to be a quid pro quo email?

21 A. Yes, she did, and she gave me a copy of it.

22 Q. And what did she say about that email?

23 A. I don't recall what she said about it.

24 Q. What did you think when you saw that email?

25 A. I thought it was a very stupid email to send.

1 Q. Did she seem upset by that email?

2 A. Yes.

3 Q. Did you believe her?

4 A. That she was upset?

5 Q. Yeah.

6 A. Yes.

7 Q. Did you think it was reasonable to be upset
8 because of that email?

9 A. Yeah.

10 Q. And how did she describe reacting after the
11 email?

12 A. I do not remember.

13 Q. Do you remember if she told you that she tried
14 to take some distance after receiving that email?

15 A. I do recall her saying that she wanted to get
16 some distance from JP, but I don't recall the timeframe
17 in which she said that.

18 MS. WARREN: Let's just take a short break.

19 MS. McMAHON: That would be great.

20 (Recess from 10:40 a.m. to 10:57 a.m.)

21 BY MS. WARREN:

22 Q. Ms. Beam, would you be all right if we go
23 through to lunch --

24 A. Yeah, sure.

25 Q. -- or try to? Excellent. I have a couple of

1 was going to trial?

2 A. Yes.

3 Q. And the PSI that JP wanted her to go to was
4 for shadowing?

5 A. Yes.

6 Q. And it seems like they had some heated
7 conversations about this. Would you --

8 A. As she described them to me, I would agree.

9 Q. And what did she describe?

10 A. She used the word "berate," that he berated
11 her, that he was visibly angry.

12 Q. Uh-huh. Did she describe how she could tell
13 he was angry visibly?

14 A. I remember her -- and I believe I took a note
15 on it, that JP was shaking he was so angry.

16 Q. Did she tell you how that made her feel?

17 A. Yes.

18 Q. And what did she say?

19 A. Uncomfortable.

20 Q. Did she talk about how it made her feel a
21 couple weeks after receiving the quid pro quo email?

22 A. I do not recall.

23 Q. Okay. But she told you about the quid pro quo
24 email first?

25 MS. McMAHON: Objection, misleading.

1 BY MS. WARREN:

2 Q. You may answer.

3 A. I think she did.

4 Q. In your notes it comes first.

5 A. Yeah. Uh-huh.

6 Q. Did she tell you that that quid pro quo email
7 had changed how she felt about their work?

8 MS. McMAHON: Objection, misleading.

9 BY MS. WARREN:

10 Q. I'm just asking if she told you if the quid
11 pro quo email had changed anything for her.

12 MR. KOLSKY: Same objection.

13 BY MS. WARREN:

14 Q. You may answer.

15 A. Can you clarify your question? As in changed
16 what?

17 Q. Anything at all.

18 A. I do not recall if she said that that -- are
19 you asking me the question like was that the catalyst
20 that started all of this?

21 Q. I'm asking how she described it as you
22 understood it.

23 A. Okay. She described it as a quid pro quo
24 email. That's it.

25 Q. Okay. She didn't tell you how it made her

1 her answer was, but I do remember trying to get a copy
2 of it.

3 Q. Is that something you would do as an HR
4 professional?

5 A. First thing. Yes.

6 Q. And when people start in jobs, do you advise
7 employers to make sure they have a copy of the personnel
8 manual?

9 A. Yes. And we also give them a copy of the EDR
10 plan. Our district does it a little differently. We
11 also have -- we give them the video for the employee
12 training that's on the JNet. If they're a manager, they
13 get the manager video training, and that was not
14 available at that time.

15 Q. In 2018?

16 A. No.

17 Q. When did that become available?

18 A. I would say it's become available in the last
19 year or two.

20 Q. Okay. So to your knowledge -- you -- sorry.

21 A. It's okay.

22 Q. Do you know if Caryn had a copy of the
23 personnel manual in, let's say, May of 2018?

24 A. I don't recall.

25 Q. And it seems, according to your notes, that

1 she had not been informed of the process at the time?

2 A. Correct.

3 Q. Okay. Did she say that -- did Caryn tell you
4 that she reached out to Nancy Dunham? I'm looking at
5 the next page.

6 A. Yes.

7 Q. And do you remember what she said Nancy told
8 her?

9 A. Not that I recall.

10 Q. Okay. It says on July 24th she called in
11 sick.

12 A. Yes.

13 Q. Do you remember why?

14 A. Yeah. This was when she had requested to be
15 taken out of JP's chain of command. Tony had a meeting,
16 I believe, that Friday with staff going over the new
17 organizational chart, and when he sent it out, her
18 name -- her box was still under JP, which Caryn took
19 that as she's still reporting to JP. This was upsetting
20 to her, so she did call in sick.

21 Q. Did Tony also send an email saying that she
22 was going to report to JP?

23 A. He sent an email out, and that email in
24 question, I recall Caryn was under the impression she
25 would be able to review it before he sent it out, but I

1 A. To not make any outward appearance that
2 they're still trying to pursue what they're being
3 accused of pursuing.

4 Q. And would you tell -- would you tell them not
5 to -- to stay away to protect, it sounds like, their own
6 rights? Is that what you're --

7 MS. McMAHON: Objection, calls for
8 speculation.

9 BY MS. WARREN:

10 Q. You would advise them to stay away so that the
11 investigation could continue?

12 A. Yes.

13 Q. You said, "If you need to talk keep it to
14 Bill" -- is that Bill Moormann --

15 A. Uh-huh.

16 Q. -- "or Tony," Tony Martinez, "and of course
17 your wife only."

18 A. Uh-huh.

19 Q. The investigation was confidential, right?

20 A. Yes. Uh-huh.

21 Q. Did you tell witnesses it was confidential?

22 A. Yes.

23 Q. And that means that they should only share
24 information in that need-to-know exception?

25 A. Yes.

1 Q. So would talking to Bill be confidential?

2 A. He had already talked to Bill, so I wasn't
3 giving him advice to talk to Bill to get any
4 confidential information.

5 Q. Did you ever make clear to JP that he should
6 not talk to Bill about the facts of these allegations?

7 A. I do not recall.

8 Q. Did you ever make clear to JP that he should
9 not talk to Tony about the facts of these allegations?

10 A. I do not recall.

11 Q. Were you concerned that JP and Tony might
12 discuss the facts of these allegations?

13 A. No, because I expected it to be kept
14 confidential between all parties involved.

15 Q. Even though you told JP, "if you need to talk
16 keep it to Bill or Tony"?

17 A. Yes. Tony in the capacity that she was JP's
18 boss.

19 Q. But your email doesn't say limit it to --

20 A. No.

21 Q. Okay. And his wife would not be confidential
22 communications according to the plan either?

23 A. Correct.

24 Q. Did you ever advise JP and Tony because they
25 were both accused that they shouldn't talk about the

1 accusations together?

2 A. Not that I recall.

3 Q. Would it be important to advise them of that?

4 A. I'm not sure.

5 Q. Can witnesses influence each other's stories
6 by talking about facts?

7 MS. McMAHON: Objection, calls for
8 speculation.

9 BY MS. WARREN:

10 Q. You may answer.

11 A. I have not had experience with that.

12 Q. In your years in HR, have you ever been told
13 that when there is a claim like this, witnesses could
14 come up with a story if they talk to one another?

15 MS. McMAHON: Same objection.

16 BY MS. WARREN:

17 Q. You may answer.

18 A. Not that I recall.

19 Q. Have you ever considered that possibility?

20 A. In this case?

21 Q. Ever.

22 A. Ever? No.

23 Q. Did you ever consider it in this case?

24 A. No.

25 Q. And did you ever ask JP and Tony if they were

1 talking to each other?

2 A. No, I did not.

3 Q. Neither JP?

4 A. (Witness shook head.)

5 Q. That's a no?

6 A. No.

7 Q. Nor Tony?

8 A. Nor Tony, no.

9 Q. Why?

10 A. Why? It did not occur to me to ask.

11 Q. When you interview witnesses, do you do it
12 with other people present?

13 A. I did not do it with other people present.

14 Q. And why did you think it was important to
15 interview one witness at a time?

16 A. Due to confidentiality.

17 Q. Are there any other reasons why you would only
18 want to interview one witness at a time?

19 A. No.

20 Q. Looking at the front page of this, which is
21 1357 on the bottom, this is September 26th, 2018 in the
22 middle, and JP says, "Hey Heather, one more question did
23 occur to me after thinking about it for a bit -- you
24 referenced a Chapter X complaint, which to my
25 understanding would have required Caryn to actually

1 the storm when Caryn rode her bike to work, and she had
2 described it as being cornered in the lobby, and I asked
3 JP how far away were you standing from Caryn, and he
4 said about 100 feet.

5 Q. Can you look at your notes on page 6231?

6 A. Yeah.

7 Q. At the bottom he said he was standing about
8 10 yards away.

9 A. I stand corrected. 10 yards.

10 Q. Not 100 feet?

11 A. Yeah.

12 Q. I was just wondering. The lobby --

13 A. I knew there was a one-zero somewhere. Sorry.
14 10 yards. I would agree with that.

15 Q. I'd like to be in a 100-foot lobby.

16 On 6230, you have an aside that in the
17 conversation on June 6th about the PSI that JP admitted
18 to being very upset and he was controlling?

19 A. Yes.

20 Q. And he does not recall if he raised his voice
21 or not?

22 A. That is true.

23 Q. Okay. Given the different -- given that and
24 what Caryn told you, did you think it was likely that
25 Caryn -- that he seemed angry as Caryn described?

1 A. Yes. That would be reasonable.

2 Q. Uh-huh. And June 6th was about three weeks
3 after the quid pro quo email on May 18th?

4 MS. McMAHON: Objection, misleading.

5 BY MS. WARREN:

6 Q. You may answer. How long -- June 6th is a
7 couple of weeks after May 18th?

8 A. Yes. I would agree with that.

9 Q. And May 18th was when JP sent the quid pro quo
10 email?

11 MS. McMAHON: Objection, misleading.

12 A. Can I double-check that email?

13 BY MS. WARREN:

14 Q. You're welcome to.

15 A. Did you give me a copy of that one already?

16 Q. It's in your report.

17 A. In my report. Okay.

18 Q. And I can tell you the page number for it. I
19 think that's 1260.

20 A. May 18th, yes. That is correct.

21 Q. It seems like -- turning back to your notes
22 that we were looking at.

23 A. Yeah.

24 Q. And I think we were -- just for your
25 reference, we had been on page 6231.

1 A. I did not. I was going to look up -- well, I
2 tried. I did look up the Federal Defenders' pay and all
3 of that, the qualifications and stuff like that.

4 Q. And did you confirm his assertion that Caryn
5 would have needed five more years to qualify for a
6 grade 15?

7 A. I do not recall because the G15, or G as in a
8 grade, I didn't find anywhere. AFDs have pay ranges.

9 Q. Uh-huh. And the AFDs have a pay range. The
10 research and writing specialists, I believe it's the JSP
11 plan.

12 A. Okay, yes.

13 Q. Is that correct?

14 A. That would be correct if -- I think I have her
15 SF-50 here. Let me -- oh, right here. Her pay plan is
16 ungraded. Oh, but that was as a Assistant Federal
17 Defender. So the pay plan said 14-2. Pay plan is FD.

18 Q. So she was at -- do you take 14 to be
19 referring to a grade on that plan?

20 A. Yeah, because it's this in the grade or level
21 box, and the 2 is in the box titled step or rate, but
22 the pay plan says FD. If it were JSP it would say JS.

23 Q. Thank you. And these plans, just so I'm
24 understanding, I believe that they have -- it's sort of
25 a table, is that right?

1 so, for example, a grade 14 -- maybe even not -- not as
2 a research and writing specialist, but these ungraded
3 pay plans for AFDs, it has a start -- like a minimum and
4 a maximum, and I did not understand where they picked
5 the dollar amount to pay. It seemed different. I'm not
6 going to say if it's good or bad, it's just different
7 than what I'm used to in the probation and District
8 Court.

9 Q. Are you on more similar tables with grades and
10 steps?

11 A. Everything's modeled after the general
12 schedule for the government, and we do have the JSP
13 schedule for chamber staff and -- yeah, chamber staff,
14 and then our circuit executive and the second in
15 command. Everybody else is on the court personnel
16 system. Similar. They have grades and they have steps.

17 Q. Did you understand how grades and steps worked
18 for research and writing attorneys?

19 A. Based on their education, experience.

20 Q. So the grades and steps had more objective
21 criteria?

22 A. I don't recall.

23 Q. Okay. Generally are the grades and steps --
24 do they include years of experience to qualify for
25 certain ones?

1 A. In my world, yes, it does, and the experience
2 is also separated out between general experience and
3 then specialized experience, and that is described like
4 what would be specialized experience.

5 Q. Did you research how -- sorry. Give me just a
6 moment. I don't want to ask a confusing question.

7 A. Take your time.

8 Q. I know you said that the AD plan, the ranges
9 for the Federal Defenders themselves was confusing to
10 you, but talking about the graded and stepped plan, did
11 you research the qualification -- who would have been
12 eligible -- did you research if Caryn was eligible for a
13 G15?

14 A. I do not recall what I researched because I
15 know that they're compared to an Assistant U.S.
16 Attorney, kind of like the U.S. Attorney staff is what
17 they're compared to.

18 Q. So you never looked into the truth of JP's
19 assertion that it would take her five years to get
20 there?

21 A. I would not say that's an accurate statement.
22 I don't remember. I had conversations with Bill and I
23 looked at their defender services organization handbook.
24 That's what I remember looking at and talking with Bill.

25 Q. Was it important to you to know if this was an

1 accurate statement?

2 A. Well, yeah, especially when he says it would
3 take you five years to get there.

4 Q. And why would it be important?

5 A. Because in my experience it takes about a
6 year, not on the JS schedule, but in the court personnel
7 system you have to be at the grade for a year before you
8 can go to the next grade.

9 Q. Uh-huh. On the graded schedule, within those
10 yearly reviews are there automatic steps up?

11 A. Yes, there are.

12 Q. And is there automatic movement down from one
13 grade to the next level grade?

14 A. No. That would be an actual HR action that
15 had to be taken, otherwise known as a promotion.

16 Q. Okay. But those promotions are generally
17 guided by years of experience?

18 A. Years of experience is the qualifier; however,
19 in our organization we also look at performance of the
20 position that they're in now. I mean, if they can't do
21 their job now, they can't do their job in a more -- with
22 more responsibility.

23 Q. And when you say in our organization, which
24 organization?

25 A. I'm sorry. District Court or probation.

1 A. Uh-huh.

2 Q. -- do you see what appears to be the
3 attachment?

4 A. Yes.

5 Q. And on page 592 at the bottom, this is
6 Plaintiff's 592, do you see a witness list?

7 A. Yes.

8 Q. And did you reach out to any of those people?

9 A. No, I did not.

10 Q. Why didn't you reach out to them?

11 A. I was only focused on the people that were
12 involved directly in the situation.

13 Q. Did you interview anyone else who could
14 substantiate these claims?

15 A. I did not.

16 Q. Did Caryn tell you that these people had
17 information that was relevant to her claims?

18 A. I do not remember.

19 Q. Do you think she gave you witnesses who didn't
20 have information?

21 MS. McMAHON: Objection, misleading.

22 A. I am not sure.

23 BY MS. WARREN:

24 Q. Why do you think she gave you this witness
25 list?

1 A. Because she wanted to provide a witness list.

2 Q. So she just wanted to give you these names?

3 A. Yeah. Maybe she thought they were relevant to
4 the investigation, but she didn't say. I don't recall
5 her saying so.

6 Q. You don't recall that she told you you should
7 talk to these people?

8 A. I do not remember.

9 Q. Did you think you should talk to these people?

10 A. I didn't even remember getting this email.

11 Q. Okay. But you agree that it appears you
12 received it?

13 A. Yes. Correct email address.

14 Q. There's no reason that you wouldn't have
15 gotten it?

16 A. No.

17 MS. WARREN: We'll mark this as 32.

18 (Exhibit 32 was marked for identification.)

19 BY MS. WARREN:

20 Q. Did you ever see this email -- or this
21 exchange of text messages?

22 A. I do not recall. And if I did receive it, it
23 was in my file.

24 Q. Okay. And this says, "She may just need to
25 get smacked a bunch, tho." Is that right?

1 A. Yes. That is correct.

2 Q. If JP had said that about Caryn, would you be
3 concerned?

4 MS. McMAHON: Objection, calls for
5 speculation. The witness can testify on her personal
6 knowledge.

7 BY MS. WARREN:

8 Q. Would you be concerned?

9 A. I was not involved in that conversation.

10 Q. Would you be concerned if you saw an employee
11 say that another employee "may just need to get smacked
12 a bunch, tho"?

13 MS. McMAHON: Objection, calls for
14 speculation.

15 A. I'm not sure.

16 BY MS. WARREN:

17 Q. You're not sure if you would be concerned?

18 A. It depends on the situation.

19 Q. Given your decades in HR, if someone said that
20 their fellow employee may need to get smacked a bunch,
21 you wouldn't be concerned?

22 A. In today's environment, I would probably have
23 a conversation with them if I were made aware of it, but
24 that's not the right language to be using when talking
25 about an employee.

1 Q. Did you ask JP if he had ever made statements
2 about Caryn to other employees that might be
3 inappropriate?

4 A. I do not recall.

5 Q. Let's look at your report. Let's go ahead and
6 start on page 1244. In Section III you say there that,
7 "Employee alleges sexual harassment based on the
8 following," and I see that there are four claims listed
9 between pages 1 and 2 of your report.

10 A. Uh-huh.

11 Q. How did you determine those four claims?

12 A. That's what I summarized from my conversation
13 with Caryn.

14 Q. And did you feel that that was an appropriate
15 summary of your conversation?

16 A. Yes.

17 Q. And based on the written grievance and request
18 that she submitted on September 10th and the other
19 documents that she submitted to you, did you feel that
20 this fairly captured all of her claims?

21 A. It did not speak to the retaliation claim.

22 Q. Did you feel that this captured all of the
23 instances of sexual harassment?

24 A. Yes, I did.

25 Q. You did not feel that there were other

1 instances of sexual harassment not described in these
2 four bullet points?

3 A. No, I didn't.

4 Q. So when she told you that JP tried to get her
5 to have a drink with him late at night, you didn't
6 consider that part of her concern about sexual
7 harassment?

8 A. No.

9 Q. When she said that he seemed to be watching
10 her, you didn't consider that part of her sexual
11 harassment claim?

12 A. No.

13 Q. How did you understand sexual harassment?

14 A. Unwanted sexual advances, repeated asking for
15 dates or sexual favors, but just watching someone did
16 not register with me that that's sexual harassment.

17 Q. Did she describe other things that she was
18 concerned about in terms of inappropriate personal
19 relationships?

20 A. Of other people together?

21 Q. Did she describe JP crossing personal
22 boundaries in other ways?

23 A. Yes. In the way that he spoke with her when
24 he was angry.

25 Q. And what about some of his investment in her

1 A. Well, it depends on the date when all that
2 happened, and if it was, you know, the same day as the
3 email, those two would go together I would imagine.

4 Q. In what way?

5 A. If she perceived that email to be the quid pro
6 quo and then she -- and then he's waiting for her
7 downstairs to make sure she doesn't need a ride because
8 it's storming, the perception could have been that he
9 was making an advance even though perhaps his perception
10 was it's kind of dangerous to ride home in a storm, and
11 he had given her rides home in the past.

12 Q. People can have different perceptions of
13 events?

14 A. Absolutely, yes.

15 Q. And that's what you were investigating?

16 A. Yes.

17 Q. Whose perception matters for sexual
18 harassment?

19 MS. McMAHON: Objection, vague.

20 A. I'm not sure. That's not up to me to judge.

21 BY MS. WARREN:

22 Q. Did you ever get any training about that?

23 A. Never talked about whose -- about perception.

24 Q. Okay. Did you ever get any training about
25 some behavior that -- there's some behavior that, would

1 you agree, can objectively be considered sexual
2 harassment, like asking someone to sleep with you?

3 A. Yes.

4 Q. There's other behavior that, as you've been
5 saying, I think, it depends on the context?

6 A. And the situation, yes.

7 Q. So it may not be as clear on its face?

8 A. Right.

9 Q. And in that kind of context, when it's not
10 clear on the face, have you ever been trained how you
11 assess whether that behavior is or is not sexual
12 harassment?

13 A. Not that I recall.

14 Q. I'm sorry. I couldn't hear.

15 A. Not that I recall.

16 MS. WARREN: Thank you.

17 MS. McMAHON: Liv, we've been going for over
18 an hour and a half at this point. Do we want to break
19 for food?

20 MS. WARREN: That's totally fine. Sure. It's
21 12:40. We'll go off the record and come back.

22 (Luncheon recess from 12:38 p.m. to 1:45 p.m.)

23 BY MS. WARREN:

24 Q. We're back on the record. Good afternoon.

25 A. Good afternoon.

1 CERTIFICATE OF NOTARY PUBLIC & REPORTER

2
3 STATE OF NORTH CAROLINA)

4 COUNTY OF UNION)

5
6 I, Dayna H. Lowe, the officer before whom the
7 foregoing deposition was taken, do hereby certify that the
8 HEATHER BEAM was duly sworn by me; that the testimony of
9 said witness was taken in stenotype and thereafter reduced
10 to typewriting by me or under my direction; that said
11 deposition is a true record of the testimony given by said
12 witness; that I am neither counsel for, related to, nor
13 employed by any of the parties to the action in which this
14 deposition was taken; and, further, that I am not a
15 relative or employee of any attorney or counsel employed
16 by the parties thereto, nor financially or otherwise
17 interested in the outcome of the action.

18 This the 20th day of April, 2023.

19
20

21 _____
DAYNA H. LOWE

22 Notary Public #19971830009
23
24
25